



COUNTY OF LOS ANGELES

OFFICE OF THE COUNTY COUNSEL

648 KENNETH HAHN HALL OF ADMINISTRATION

500 WEST TEMPLE STREET

LOS ANGELES, CALIFORNIA 90012-2713

LLOYD W. PELLMAN
County Counsel

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TDD
(213) 633-0901
TELEPHONE
(213) 974-1904
TELECOPIER
(213) 687-7300

TO: SUPERVISOR YVONNE BRATHWAITE BURKE, Chair
SUPERVISOR GLORIA MOLINA
SUPERVISOR ZEV YAROSLAVSKY
SUPERVISOR DON KNABE
SUPERVISOR MICHAEL D. ANTONOVICH

FROM: LLOYD W. PELLMAN
County Counsel

RE: **SB 402 Litigation - Court of Appeal Holds SB 402
Unconstitutional in City of Redding Case**

For your information, on March 28, 2003 the California Court of Appeal for the Third Appellate District, in an appeal petition filed by the City of Redding, reversed a Superior Court decision which had compelled binding arbitration as requested by the Fire Fighters union and held SB 402 to be unconstitutional under Section 11 (a) of Article XI of the California Constitution. Section 11 (a) prohibits the delegation to a private party of power to interfere with county money or the performance of municipal functions.

The Court's 2-1 decision was unpublished, undoubtedly because the California Supreme Court has under submission the County of Riverside case which, as I advised your Board by memorandum in January, was argued on February 4, 2003. The Supreme Court's decision is expected in May of 2003 and will, of course, determine the outcome of the various constitutional challenges to SB 402 which remain pending in a number of courts throughout the state. These include the Riverside County, Ventura County and City of Redding cases.

If you or your staff have any questions or would like a copy of the Third District opinion, please contact me or Chief Deputy County Counsel Donovan Main at 974-1829.

LWP:DMM:mr

c: David E. Janssen, Chief Administrative Officer

Violet Varona-Lukens, Executive Officer, Board of Supervisors